

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Ingram *et al.*

Serial No.: 09/885,297

Filed: June 19, 2001

For: *Methods and Compositions for Simultaneous
Saccharification and Fermentation*

Attorney Docket No.: BCI-024CP

Group Art Unit: 1652

Examiner: Rao, Manjunath N.

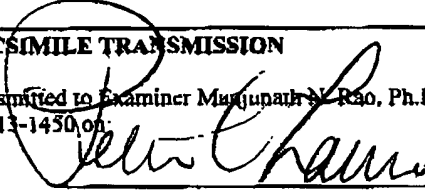
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Examiner Manjunath N. Rao, Ph.D. at Facsimile No. 703-308-4242, Commissioner for Patents, Alexandria, VA 22313-1450 on:

June 17, 2003

Date


Peter C. Lauro, Esq., Reg. No. 32,360

DECLARATION FOR DEPOSIT

Dear Sir:

I, Peter C. Lauro, hereby declare that:

1. I am the Attorney for the inventors the above-identified application.
2. The host cells referred to in the above-identified application as *E. coli* KO4 (ATCC 55123), *E. coli* KO11 (ATCC 55124), *E. coli* KO12 (ATCC 55125) and *E. coli* LY01 (ATCC 11303), and *K. oxytoca* P2 (ATCC 55307) were deposited at the American Type Culture Collection at 10801 University Boulevard, Manassas, VA 20110-2209, under the terms of the Budapest Treaty and have been assigned the ATCC Accession Numbers indicated above. Copies of the deposit receipts for the host cells from the ATCC ("Deposit Filing Receipts") are attached hereto.
3. As can be seen from the Deposit Filing Receipts, the above-referenced host cells were deposited under conditions that assure that access to the clone will be available during the pendency of the above-identified patent application to one determined by the Commissioner of

Attorney Docket No. BCI-024CP
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Patents and Trademarks to be entitled thereto. Access to the deposit also will be afforded to the Commissioner upon request during the pendency of the patent application

4. Upon granting of a patent on the above-identified patent application, all restrictions on the availability to the public of the above-referenced host cells will be irrevocably and without restriction or condition removed.

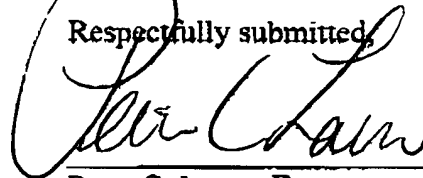
5. The deposits will be maintained with all the care necessary to keep cells viable and uncontaminated for a period of at least five years after the most recent request for furnishing of a sample of the deposited cell line, and, in any case, for a period of at least thirty (30) years after the date of deposit or for the enforceable life of the patent, whichever period is longer.

6. As the Deposit Filing Receipts indicate, the viability of the deposits was tested at the time the deposit was made and the tests indicated that the cultures were viable.

7. If the deposits become nonviable or non-replicable, the deposit shall be replaced

I hereby declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the instant patent application or any patent issued thereon.

Respectfully submitted,



Peter C. Lauro, Esq.
Registration No. 32,360
Attorney for Applicants

LAHIVE & COCKFIELD, LLP
28 State Street
Boston, MA 02109
Tel. (617) 227-7400

Dated: June 17, 2003

ATCC

10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-3700 • FAX: 703-365-3745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE****INTERNATIONAL FORM****RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2****To: (Name and Address of Depositor or Attorney)**

University of Florida
Attn: Dr. Lonnie O'Neal Ingram
Dept. of Microbiology & Cell Science
McCarty Hall
Gainesville, FL 32611

Deposited on Behalf of: University of Florida**Identification Reference by Depositor:**

Escherichia coli: K04
Escherichia coli: K011
Escherichia coli: K012
Escherichia coli: K020

Patent Deposit Designation

55123
55124
55125
55126

The deposits were accompanied by: a scientific description, a proposed taxonomic description indicated above.
The deposits were received November 28, 1990 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strains, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strains.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested December 3, 1990. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Tanya Nunnally, Patent Specialist, Patent Depository

Date: September 20, 2001

cc:



A global biotechnology company
organization dedicated to biological
standards and biodiversity


10801 University Boulevard
Manassas, Virginia 20110-2209 USA

Telephone (703) 365-2700
Facsimile (703) 365-2701
Internet <http://www.atcc.org/>

Date: June 3, 2003
To: Ines Burger
Lahive & Cockfield LLP
From: ATCC Patent Depository
Reference: Declaration for ATCC No. 11303

Enclosed, per your request, is a copy of the declaration for the deposit assigned ATCC No. 11303. The strain was originally deposited into the general collection in 1952, prior to the Budapest Treaty. Therefore, no certificate was issued at that time. However, the attached declaration indicates the date of receipt of this strain in viable condition and its guaranteed availability for 30 years as per Rule 9.1 of the Budapest Treaty.

If you need further information concerning this deposit please contact me. Thank you.


Tanya Nunnally, Patent Specialist
ATCC Patent Depository
Tel. 703-365-2721

I. Declaration of Release

The culture collection

Name	American Type Culture Collection
Address	12301 Parklawn Drive, Rockville, Maryland 20852 USA
Is herewith irrevocably authorized to release upon request samples of the microorganism	
Scientific description	Escherichia coli
Depositor's identification reference	ATCC 11303

Mentioned in the German patent application P P 33 29 568.9

From the date of the last publication of the application documents (laying open, or publication pursuant to Art. 30 of the German Patent Law) to recipients within the purview of the Patent Law (Federal Republic of Germany and Berlin (West)).

For the authorities and courts involved in the granting procedure, the present declaration authorizing release shall be effective even prior to the first publication of the application documents.

The right of restitution or destruction of the culture from the date of the first publication of the application documents is irrevocably claimed.

Release of the sample shall be effected on the following conditions*):

None

Place, Date

Columbia, Maryland USA - 11-9-83

W. R. Grace & Co. Inc.
(Signature of depositor)

For W. R. Grace & Co. - Applicant

*) where release without any conditions is not provided for by the provisions of the country of deposit or by the culture collection, the following conditions may be inserted:

The recipient shall

Communicate the name and address to the culture collection, and the latter shall, upon request, furnish these indications to the depositor.

Undertake vis a vis the depositor, up to the expiring of patent protection,

a) not to pass the sample on to third parties

b) not to remove the sample from the purview of the German Patent Law

II. Acknowledgement

It is herewith acknowledged that

the above identified microorganism was deposited here in viable state

on July 7, 1952 and given the accession numberATCC 11303(from 1983)

The period of storage shall not be less than 30 years in addition thereto, the culture will be stored for a period of at least five years after the most recent request for the release of a sample. Viable samples of the said culture will be released during the entire period of storage, on the above mentioned terms and in accordance with the national provisions governing the handling of microorganisms, to those paying the requested fee. Prior to the expiration of the terms guarantees the period of storage and free access to the microorganism

Export of the culture to the Federal Republic of Germany is presently

Not subject to any restrictions.

Is subject to the following restrictions: None

November 14, 1983

Robbie D. Borden
(Culture collection)



American Type Culture Collection

12301 Parklawn Drive Rockville, MD 20852 USA • Telephone: (301)231-4520 Telex: 895-644 ATCCNORTH • FAX: 301-770-2567

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3 AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

T : (Name and Address of Depositor or Attorney)

University of Florida
Attention: Dr. Lonnie O'Neal Ingram
Department of Microbiology and Cell Science
McCarty Hall
Gainesville, FL 32611

Deposited on Behalf of: University of Florida

Identification Reference by Depositor:

ATCC Designation

Klebsiella oxytoca M5A1, P2

56307

The deposit was accompanied by: ☐ a scientific description ☒ a proposed taxonomic description indicated above.

The deposit was received March 11, 1992 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:

☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years after the date of deposit, and for a period of at least five years after the most recent request for a sample. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested March 13, 1992. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Bobbie A. Brandon, Head, ATCC Patent Depository

Date: March 18, 1992

cc: Bruce Clary
Steve Bent

Form BP4/9

ATCC

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BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

University of Florida
Dept. Micro & Cell Science
Attn: Lonnie O. Ingram
Box 110700
Gainesville, FL 32611

Deposited on Behalf of: University of Florida Research Foundation, Inc., Grinter Hall, University of Florida,
Gainesville, FL 32611

Identification Reference by Depositor:

Ethanologenic derivative of *Klebsiella oxytoca* strain M5A1: P2(pCPP2006)

Patent Deposit Designation

PTA-3468

The deposit was accompanied by: ☐ a scientific description ☐ a proposed taxonomic description indicated above.

The deposit was received June 19, 2001 by this International Depository Authority and has been accepted

AT YOUR REQUEST: ☒ We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

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The viability of the culture cited above was tested July 13, 2001. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Fanya Nunnally, Patent Specialist, Patent Depository

Date: July 30, 2001

cc: Peter C. Lauro
(Ref. Docket or Case No.: BCI-024-2)

ATCC

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**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE****INTERNATIONAL FORM****RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2****To: (Name and Address of Depositor or Attorney)**

University of Florida
Dept. Micro & Cell Science
Attn: Lonnie O. Ingram
Box 110700
Gainesville, FL 32611

Deposited on Behalf of: University of Florida Research Foundation Inc., Grinter Hall, University of Florida,
Gainesville, FL 32611

Identification Reference by Depositor:

Klebsiella oxytoca strain M5A1: SZ6(pCPP2006)
Klebsiella oxytoca strain M5A1: SZ21(pCPP2006)
Escherichia coli ATCC 11303: LY01
Klebsiella oxytoca strain M5A1: SZ22(pCPP2006)

Patent Deposit Designation

PTA-3464
PTA-3465
PTA-3466
PTA-3467

The deposits were accompanied by: a scientific description, a proposed taxonomic description indicated above. The deposits were received June 19, 2001 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

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The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above was tested July 13, 2001. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:


Tahya Nunnally, Patent Specialist, Patent Depository

Date: July 30, 2001

cc: Peter C. Lauro

(Ref: Docket or Case No.: BCI-024-2)